



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2664

Introduced 1/20/2006, by Sen. M. Maggie Crotty

SYNOPSIS AS INTRODUCED:

70 ILCS 2405/8
735 ILCS 5/7-102

from Ch. 42, par. 307
from Ch. 110, par. 7-102

Amends the Sanitary District Act of 1917 and the Code of Civil Procedure. Provides that no prior approval of the Illinois Commerce Commission shall be required for the condemnation of sewage collection and treatment works owned by a public utility and located within the boundaries of the sanitary district if the district continues to operate the works as a sewage collection and treatment system. Effective immediately.

LRB094 19033 HLH 54528 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Sanitary District Act of 1917 is amended by
5 changing Section 8 as follows:

6 (70 ILCS 2405/8) (from Ch. 42, par. 307)

7 Sec. 8. The sanitary district may acquire by purchase,
8 condemnation, or otherwise all real and personal property,
9 right of way and privilege, either within or without its
10 corporate limits that may be required for its corporate
11 purposes. If real property is acquired by condemnation, the
12 sanitary district may not sell or lease any portion of the
13 property for a period of 10 years after acquisition by
14 condemnation is completed. If, after such 10-year period, the
15 sanitary district decides to sell or lease the property, it
16 must first offer the property for sale or lease to the previous
17 owner of the land from whom the sanitary district acquired the
18 property. If the sanitary district and such previous owner do
19 not execute a contract for purchase or lease of the property
20 within 60 days from the initial offer, the sanitary district
21 then may offer the property for sale or lease to any other
22 person. For the purposes of this Section no prior approval of
23 the Illinois Commerce Commission shall be required for
24 condemnation of sewage collection or treatment works owned by a
25 public utility and located within the boundaries of the
26 sanitary district if the works are to be used by the sanitary
27 district either by operating the works as a separate system or
28 incorporating it into the sewage collection or treatment system
29 of the sanitary district. If any district formed under this Act
30 is unable to agree with any other sanitary district upon the
31 terms whereby it shall be permitted to use the drains, channels
32 or ditches of such other sanitary district, the right to such

1 use may be acquired by condemnation in any circuit court by
2 proceedings as provided in Section 4-17 of the Illinois
3 Drainage Code. The compensation to be paid for such use may be
4 a gross sum, or it may be in the form of an annual rental, to be
5 paid in yearly installments as provided by the judgment of the
6 court wherein such proceedings may be had. However, when such
7 compensation is fixed at a gross sum all moneys for the
8 purchase and condemnation of any property shall be paid before
9 possession is taken or any work done on the premises damaged by
10 the construction of such channel or outlet, and in case of an
11 appeal from the circuit court taken by either party whereby the
12 amount of damages is not finally determined, then possession
13 may be taken, if the amount of judgment in such court is
14 deposited at some bank or savings and loan association to be
15 designated by the court, subject to the payment of such damages
16 on orders signed by the circuit court, whenever the amount of
17 damages is finally determined. The sanitary district may sell,
18 convey, vacate and release the real or personal property, right
19 of way and privileges acquired by it when no longer required
20 for the purposes of the district.

21 (Source: P.A. 90-558, eff. 12-12-97.)

22 Section 10. The Code of Civil Procedure is amended by
23 changing Section 7-102 as follows:

24 (735 ILCS 5/7-102) (from Ch. 110, par. 7-102)

25 Sec. 7-102. Parties. Where the right to take private
26 property for public use, without the owner's consent or the
27 right to construct or maintain any public road, railroad,
28 plankroad, turnpike road, canal or other public work or
29 improvement, or which may damage property not actually taken
30 has been heretofore or shall hereafter be conferred by general
31 law or special charter upon any corporate or municipal
32 authority, public body, officer or agent, person, commissioner
33 or corporation and the compensation to be paid for or in
34 respect of the property sought to be appropriated or damaged

1 for the purposes mentioned cannot be agreed upon by the parties
2 interested, or in case the owner of the property is incapable
3 of consenting, or the owner's name or residence is unknown, or
4 the owner is a nonresident of the state, the party authorized
5 to take or damage the property so required, or to construct,
6 operate and maintain any public road, railroad, plankroad,
7 turnpike road, canal or other public work or improvement, may
8 apply to the circuit court of the county where the property or
9 any part thereof is situated, by filing with the clerk a
10 complaint, setting forth, by reference, his, her or their
11 authority in the premises, the purpose for which the property
12 is sought to be taken or damaged, a description of the
13 property, the names of all persons interested therein as owners
14 or otherwise as appearing of record, if known, or if not known
15 stating that fact and praying such court to cause the
16 compensation to be paid to the owner to be assessed. If it
17 appears that any person not in being, upon coming into being,
18 is, or may become or may claim to be, entitled to any interest
19 in the property sought to be appropriated or damaged the court
20 shall appoint some competent and disinterested person as
21 guardian ad litem, to appear for and represent such interest in
22 the proceeding and to defend the proceeding on behalf of the
23 person not in being, and any judgment entered in the proceeding
24 shall be as effectual for all purposes as though the person was
25 in being and was a party to the proceeding. If the proceeding
26 seeks to affect the property of persons under guardianship, the
27 guardians shall be made parties defendant. Persons interested,
28 whose names are unknown, may be made parties defendant by the
29 same descriptions and in the same manner as provided in other
30 civil cases. Where the property to be taken or damaged is a
31 common element of property subject to a declaration of
32 condominium ownership pursuant to the Condominium Property Act
33 or of a common interest community, the complaint shall name the
34 unit owners' association in lieu of naming the individual unit
35 owners and lienholders on individual units. Unit owners,
36 mortgagees and other lienholders may intervene as parties

1 defendant. For the purposes of this Section "common interest
2 community" shall have the same meaning as set forth in
3 subsection (c) of Section 9-102 of the Code of Civil Procedure.
4 "Unit owners' association" or "association" shall refer to both
5 the definition contained in Section 2 of the Condominium
6 Property Act and subsection (c) of Section 9-102 of the Code of
7 Civil Procedure. Where the property is sought to be taken or
8 damaged by the state for the purposes of establishing,
9 operating or maintaining any state house or state charitable or
10 other institutions or improvements, the complaint shall be
11 signed by the governor or such other person as he or she shall
12 direct, or as is provided by law. No property, except property
13 described in ~~either~~ Section 3 of the Sports Stadium Act ~~or~~
14 Article 11, Division 139, of the Illinois Municipal Code ~~or~~
15 Section 8 of the Sanitary District Act of 1917, and property
16 described as Site B in Section 2 of the Metropolitan Pier and
17 Exposition Authority Act, belonging to a railroad or other
18 public utility subject to the jurisdiction of the Illinois
19 Commerce Commission may be taken or damaged, pursuant to the
20 provisions of Article VII of this Act, without the prior
21 approval of the Illinois Commerce Commission. This amendatory
22 Act of 1991 (Public Act 87-760) is declaratory of existing law
23 and is intended to remove possible ambiguities, thereby
24 confirming the existing meaning of the Code of Civil Procedure
25 and of the Illinois Municipal Code in effect before January 1,
26 1992 (the effective date of Public Act 87-760).
27 (Source: P.A. 89-683, eff. 6-1-97; 90-6, eff. 6-3-97.)

28 Section 99. Effective date. This Act takes effect upon
29 becoming law.